

EXHIBIT H

TO THE DECLARATION OF CLAUDE D. MONTGOMERY, ESQ.

*In Re: City of Detroit, Debtor*

---

*Treasurer Andrew Dillon  
October 10, 2013*

---

*Moretti Group  
471 W. South Street  
Suite 41B  
Kalamazoo, MI 49007  
800-536-0804*



Original File 101013AD.TXT

View as Plain Text with Word Index

<p style="text-align: right;">Page 65</p> <p>1 A. I don't agree with that.</p> <p>2 MS. NELSON: Objection; argumentative.</p> <p>3 BY MR. SHERWOOD:</p> <p>4 Q. And without giving your -- as a Treasurer, as a</p> <p>5 former Legislator, is it your view or do you agree</p> <p>6 that the proposed treatment on June 14th, 2013,</p> <p>7 providing for cuts in accrued vested pension amounts</p> <p>8 for both active and currently retired persons would</p> <p>9 be violative of Section 24 of the Michigan</p> <p>10 Constitution?</p> <p>11 A. No, because that doesn't provide for it. To my</p> <p>12 mind, and this is how this Governor does business,</p> <p>13 is he hires good people and lets them do their job.</p> <p>14 To me that document was laying out the</p> <p>15 facts for creditors so they could understand the</p> <p>16 financial condition of City.</p> <p>17 Q. So this wasn't a proposal even though it's -- even</p> <p>18 though the title of the document is proposal for</p> <p>19 creditors?</p> <p>20 A. I think he's just laying out the facts. This is the</p> <p>21 economic reality of the City of Detroit. From</p> <p>22 there, as you know, there was various meetings with</p> <p>23 various creditors to discuss can we get this thing</p> <p>24 settled out of court.</p> <p>25 Q. Did you participate in any of those meetings?</p>	<p style="text-align: right;">Page 67</p> <p>1 A. I was mostly just listening because I was getting an</p> <p>2 update about how things were going.</p> <p>3 Q. What was the -- what did he say?</p> <p>4 A. The only specific memory I have would be the one</p> <p>5 dealing with the SWOPS, discussions with the SWOP</p> <p>6 providers and whether or not there could be a</p> <p>7 settlement reached with them.</p> <p>8 Q. What did Mr. Orr say about the SWOPS?</p> <p>9 A. He reached an agreement with two of the SWOP</p> <p>10 providers that he could get a discount on the monies</p> <p>11 owed on the SWOPS, and that's my only memory of a</p> <p>12 specific -- I knew every week that he was meeting</p> <p>13 with various creditors, but that's the only one that</p> <p>14 I remember kind of a specific deliverable for.</p> <p>15 Q. And do you recall anything else about those</p> <p>16 nonprivileged conversations?</p> <p>17 Did he report that the negotiations were</p> <p>18 going well, that they were going poorly, that they</p> <p>19 were not going at all, anything along those lines or</p> <p>20 do you just recall the specific discussion about the</p> <p>21 SWOPS?</p> <p>22 A. Yeah. I -- there was, I think, just general</p> <p>23 comments that they weren't real productive, right,</p> <p>24 that we weren't making progress.</p> <p>25 Q. Did he say why?</p>
<p style="text-align: right;">Page 66</p> <p>1 A. I don't believe so.</p> <p>2 Q. Were you given reports by the emergency manager as</p> <p>3 to how those meetings were going?</p> <p>4 A. We typically had a weekly either meeting or call</p> <p>5 where we were given an update on the status of</p> <p>6 events.</p> <p>7 Q. Who was on the weekly meeting call?</p> <p>8 A. It would be Kevyn and some of the members from his</p> <p>9 team, various members of the Governor's office as</p> <p>10 well as my office.</p> <p>11 Q. And what was reported in terms of the progress that</p> <p>12 the emergency manager was or wasn't making with the</p> <p>13 out-of-court negotiations?</p> <p>14 MS. NELSON: I'm going to object to the</p> <p>15 extent that it calls for attorney-client</p> <p>16 communications and instruct him not to answer.</p> <p>17 That, in fact, is what it calls for.</p> <p>18 BY MR. SHERWOOD:</p> <p>19 Q. Did you have any communications with Mr. Orr outside</p> <p>20 the presence of counsel --</p> <p>21 A. Yes.</p> <p>22 Q. -- concerning -- concerning negotiations with</p> <p>23 creditors before the Chapter 9?</p> <p>24 A. Yes.</p> <p>25 Q. And what did you say during those communications?</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I'm sure he did, but it would require going through</p> <p>2 each of the various creditors that he met with at</p> <p>3 the time so I don't have specific memories of each.</p> <p>4 The only one I have a specific memory right</p> <p>5 now about would be very difficult discussions with</p> <p>6 the sureties, the insurance companies, a lot of</p> <p>7 unwillingness to embrace what the economic realities</p> <p>8 were, and then a lot of concern about the number of</p> <p>9 retirees and the unions not wanting to represent the</p> <p>10 retirees, making it difficult to negotiate for</p> <p>11 20,000 people.</p> <p>12 Q. Did he say it was impossible to negotiate with all</p> <p>13 of the creditors of the City of Detroit? Did he</p> <p>14 reach that conclusion in your presence?</p> <p>15 A. I don't recall the specific words he used but</p> <p>16 clearly he was expressing that it was very difficult</p> <p>17 to work and negotiate with a pool of creditors that</p> <p>18 include 20,000 individuals, yes.</p> <p>19</p> <p>20 (Deposition Exhibit 5 was marked.)</p> <p>21</p> <p>22 BY MR. SHERWOOD:</p> <p>23 Q. Treasurer Dillon, we've marked as Dillon 5 an email</p> <p>24 from you dated July 9th to the Governor and others.</p> <p>25 Are you familiar with this email?</p>

<p style="text-align: right;">Page 69</p> <p>1 A. Yes.</p> <p>2 Q. And it says that "Kevyn will meet with the Detroit pensions tomorrow after all."</p> <p>3 I want to ask you about the word after all.</p> <p>4 Was there a suggestion before you wrote this email that Kevyn was not going to meet with the Detroit pensions?</p> <p>5 A. Yeah. I think before that there was some thought that that meeting was going to get cancelled.</p> <p>6 Q. And who was going to cancel it?</p> <p>7 A. My memory is Kevyn might have. There was a lawsuit that was filed that I think caused some consternation about whether or not he should meet with them.</p> <p>8 Q. So initially Mr. Orr was considering not meeting with the pensions on July 10th, 2013, and then he changed his mind and decided to meet with them?</p> <p>9 A. My memory is there was a plan to meet with them, then some lawsuits got filed which I think he contemplated not going forward with the meeting. And from reading this, apparently he went forward with the meeting.</p> <p>10 Q. Going down to the last paragraph it says "Tomorrow's meeting could lead to questions directed to you about your view on this topic."</p>	<p style="text-align: right;">Page 71</p> <p>1 questions about his view on the Detroit pensions was</p> <p>2 to just say it was too early in the process and you</p> <p>3 were still in the informational stage; is that</p> <p>4 right?</p> <p>5 A. That's right.</p> <p>6 Q. And this was before the Governor authorized Chapter 9 filing, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Did that -- did your view of the Governor's -- what the Governor's position should be change before July 18th, in the next week?</p> <p>9 A. No.</p> <p>10 MR. SHERWOOD: All right. I'm going to stop here, Treasurer. Thank you.</p> <p>11 I reserve the right if we have time to ask a question or two later, but I think as a courtesy to my -- the other lawyers here I'm going to turn over the mic to them.</p> <p>12 Thank you for your testimony this morning. Should we take a quick break?</p> <p>13 VIDEO TECHNICIAN: Off the record 11:02 a.m.</p> <p>14 (A brief recess was taken.)</p> <p>15 VIDEO TECHNICIAN: We're back on the record at 11:06 a.m.</p>
<p style="text-align: right;">Page 70</p> <p>1 Obviously, you is the Governor, and the</p> <p>2 Governor's view on this topic, I assume this topic is the Detroit pensions. Would that -- is that</p> <p>3 right? Am I right saying those things?</p> <p>4 A. Right.</p> <p>5 Q. So and then you -- then you say "...it's too early in the process to respond to hypothetical questions. We remain in many ways in the informational stage."</p> <p>6 Does that mean that at this point in time, July 9th, 2013, you were still in the informational stage vis-a-vis the Detroit pensions?</p> <p>7 A. We were learning things. We were learning about an annuity program that the City had offered employees. We were learning that there was alternative investments that were made that were not written down. We were learning what assumptions the City's actuarial firm was making versus the ones that Milliman was hired to really appreciate and understand what was the level of underfunding.</p> <p>8 So on that date in question I couldn't tell you that these funds were funded at X percent because there was too many moving pieces to the puzzle.</p> <p>9 Q. So your advice to the Governor was in response to</p>	<p style="text-align: right;">Page 72</p> <p>1 EXAMINATION</p> <p>2 BY MR. WERTHEIMER:</p> <p>3 Q. Mr. Dillon, my name is Bill Wertheimer. We've met</p> <p>4 off the record. I'm going to be asking you some</p> <p>5 questions.</p> <p>6 I represented and represent what we've called the Flowers Plaintiffs. That is one of the</p> <p>7 group of retirees that filed lawsuits in state court before the bankruptcy was filed.</p> <p>8 You indicated early in your testimony that you were involved in some discussions shortly after</p> <p>9 you took office as Treasurer about replacing Public Act 72. Do you recall that?</p> <p>10 A. Uh-huh. Yes.</p> <p>11 Q. You need to say your answer.</p> <p>12 A. Yes.</p> <p>13 Q. And you talked about competing constitutional provisions, one of them being the constitutional provision relating to public health, safety, welfare, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And as I understand it, your focus at the time had to do with your ability to modify CBAs; is that</p> <p>16 right?</p> <p>17 A. That's right.</p>

<p style="text-align: right;">Page 93</p> <p>1 pension funds.</p> <p>2 Q. Okay. All right.</p> <p>3 Did you have any conversations with the</p> <p>4 Governor about the issue of whether Orr should file</p> <p>5 for bankruptcy say in the couple weeks preceding the</p> <p>6 filing?</p> <p>7 MS. NELSON: Again, are you speaking just</p> <p>8 one-on-one other than attorney-client?</p> <p>9 BY MR. WERTHEIMER:</p> <p>10 Q. One-on-one or in group conversations -- I don't</p> <p>11 want -- I'm not asking you to violate the</p> <p>12 attorney-client privilege. I think you understand</p> <p>13 what we're getting at here.</p> <p>14 A. Yeah.</p> <p>15 Q. So my questions you should assume are modified in</p> <p>16 that respect.</p> <p>17 A. Yeah, so can you restate the question?</p> <p>18 (Reporter read record as follows:</p> <p>19 "Q. Did you have any conversations with the</p> <p>20 Governor about the issue of whether Orr</p> <p>21 should file for bankruptcy say in the</p> <p>22 couple weeks preceding the filing?")</p> <p>23 THE WITNESS: I have a question for my</p> <p>24 lawyer.</p> <p>25 MR. WERTHEIMER: That's fine. If you want</p>	<p style="text-align: right;">Page 95</p> <p>1 you telling the Governor?</p> <p>2 That's -- your attorney's going to object.</p> <p>3 That was three questions.</p> <p>4 A. Okay.</p> <p>5 MS. NELSON: Yes, which one would you like</p> <p>6 him to answer first?</p> <p>7 MR. WERTHEIMER: He can do it in order or</p> <p>8 however he'd like.</p> <p>9 MS. NELSON: Well, I don't know that he's</p> <p>10 going to remember them all by the time he gets to</p> <p>11 the last one.</p> <p>12 THE WITNESS: I mean, to me the building</p> <p>13 block is what's the funded status. And that issue</p> <p>14 was fluid, and I think that's the first issue that</p> <p>15 if you're going to reach a settlement with your</p> <p>16 creditors it's important to understand, all right,</p> <p>17 what's the funding level. From there you can start</p> <p>18 to figure out how do you solve this equation going</p> <p>19 forward. So I was comfortable with that.</p> <p>20 BY MR. WERTHEIMER:</p> <p>21 Q. Well, isn't there a political reason to not</p> <p>22 translate it into the impact on retirees because the</p> <p>23 impact is going to be negative? All we need to do</p> <p>24 is look at the June 14th creditors' proposal to know</p> <p>25 that, don't we?</p>
<p style="text-align: right;">Page 94</p> <p>1 to take a break or just go outside.</p> <p>2 VIDEO TECHNICIAN: Off the record 11:35</p> <p>3 a.m.</p> <p>4 (A brief recess was taken.)</p> <p>5 VIDEO TECHNICIAN: We're back on the record</p> <p>6 at 11:37 a.m.</p> <p>7 THE WITNESS: Yeah, I don't recall any</p> <p>8 conversations with the Governor outside the presence</p> <p>9 of counsel on that topic.</p> <p>10 BY MR. WERTHEIMER:</p> <p>11 Q. Okay. If you take a look at the July 9 -- do you</p> <p>12 have that one in front -- that's five. This one</p> <p>13 here.</p> <p>14 A. Okay.</p> <p>15 Q. And let me direct your attention to the first</p> <p>16 paragraph. You're telling the Governor that the</p> <p>17 emergency manager's going to meet relative to the</p> <p>18 pensions the next day, and then a couple of</p> <p>19 sentences down you say he, meaning Orr, will not</p> <p>20 translate that into an impact on retirees or</p> <p>21 employees' vested rights or what share of monies</p> <p>22 available to unsecured creditors would go to the</p> <p>23 pension plans.</p> <p>24 What was your understanding of why Orr was</p> <p>25 not going to do that? What's the point, and why are</p>	<p style="text-align: right;">Page 96</p> <p>1 MS. NELSON: Objection; form, foundation,</p> <p>2 calls for speculation.</p> <p>3 BY MR. WERTHEIMER:</p> <p>4 Q. Go ahead.</p> <p>5 A. That wasn't my thinking. My thinking was until you</p> <p>6 really know the funding status, it's hard to really</p> <p>7 understand what the impact may be.</p> <p>8 So it was more important to understand that</p> <p>9 first.</p> <p>10 Q. Okay. I have nothing further. Thank you.</p> <p>11 MS. NELSON: Is everybody done?</p> <p>12 MR. SHERWOOD: I have one or two followup,</p> <p>13 but I'll let you go first.</p> <p>14 MS. GREEN: You can go. Do your followup</p> <p>15 first. We'll wait.</p> <p>16 MR. SHERWOOD: Can I use this microphone?</p> <p>17 MS. NELSON: Well, you're the Retiree</p> <p>18 Committee and I don't believe you --</p> <p>19 MR. GALLAGHER: We're not the Committee,</p> <p>20 we're the Retirement Systems.</p> <p>21 MS. NELSON: I'm sorry, the Retirement</p> <p>22 Systems. You did not subpoena -- did not issue a</p> <p>23 subpoena to the Treasurer, and it's my understanding</p> <p>24 the parties that didn't subpoena aren't entitled to</p> <p>25 question.</p>

<p style="text-align: right;">Page 117</p> <p>1 was provided to the media, and it states it's being 2 done solely off the record and it's critical this 3 information is not traced back to the Department 4 because it has not been finalized. 5 Is it the practice of the Treasury 6 Department to allow admittedly incomplete 7 information regarding the pensions to be leaked to 8 the media? 9 A. I would say it's unusual. 10 Q. Why would it be critical, as stated in the email, 11 for the Milliman summary that Mr. Stanton had asked 12 for to be deleted and not in connection to the 13 Treasury Department? 14 A. Does it say deleted in here? Oh, yeah. I see. 15 Okay. 16 I assume he didn't want to -- yeah, he 17 thought it was out there with other news media. 18 Rick Pluta must have been asking about it, so he 19 shared with him that which he thought other media 20 outlets probably already had. 21 Q. You mentioned that there was a cap for the fees that 22 the State would pay in connection with the 23 Chapter 9. Have we reached -- 24 A. Actually, you mischaracterized it. 25 Q. I'm sorry, what was your --</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. The last question is relating to Exhibit 5 which has 2 already been marked. It's the July 9th email. 3 The email states "Tomorrow's meeting could 4 lead to questions directed to you about your view on 5 this topic." It's relating to the pension issue. 6 Is that a fair characterization of the 7 email? 8 A. Right. 9 Q. "In my view, it's too early in the process to 10 respond to hypothetical questions. We remain in 11 many ways in the informational stage. I have some 12 thoughts as to how you could address some pointed 13 questions if you're interesting in hearing them." 14 What pointed questions were you expecting? 15 A. Anything from -- well, going back in time here, but 16 just obviously the whole gamut of questions 17 regarding what the underfunding status could mean to 18 retirees, and I thought that the situation was not 19 understood enough for the Governor to go on record 20 yet because I couldn't even tell him with any degree 21 of confidence what level of funding these pension 22 funds had, so why should he get in the middle of a 23 debate about this. It's obviously a very charged 24 and sensitive issue, and it was my free political 25 comments to him.</p>
<p style="text-align: right;">Page 118</p> <p>1 A. We offered to pay 50 percent of consulting fees 2 prior to the filing. 3 Q. Up to five million? 4 A. Up to five million. 5 Q. And so in June of 2013 that would have been prior to 6 the filing and the State was still contributing to a 7 portion of those fees, correct? 8 A. I believe so. 9 Q. We can mark this as Exhibit 9. 10 11 (Deposition Exhibit 9 was marked.) 12 13 BY MS. GREEN: 14 Q. Do you recall sending this email? 15 A. I do. 16 Q. Is it safe to say the five million dollar cap has 17 been maxed out? 18 A. What I was reviewing was both the forecast as well 19 as the historical, so I was looking at more than 20 just the history. 21 Q. So what is the summary of fees that you were 22 referring to? 23 A. We were given an estimate of what the fees were 24 looking like and I reviewed it and wasn't very 25 happy.</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. And this was really just over a week before the 2 filing. That was your stance? 3 A. Yeah. I don't -- yeah, obviously. But I don't -- I 4 think it was in the context of this meeting that 5 Kevyn was going to have with the committee that 6 drove this email. 7 Q. Did anything change between the ninth and the filing 8 on the 18th that changed your opinion regarding what 9 you, I believe, just stated was too early to tell 10 him with any degree of confidence what level of 11 funding the pension funds had I believe is what you 12 just stated. 13 A. Yeah, I have not -- my opinion is pretty much the 14 same. 15 Q. The last sentence of the email says "I have some 16 thoughts as to how you could address some pointed 17 questions if you're interesting in hearing them." 18 What were your ideas for how to answer the 19 questions? 20 A. I don't recall specifically at this point. 21 Q. Did you ever have a conversation with him regarding 22 your thoughts on how to answer the questions? 23 A. No. 24 Q. You mentioned in the email "Because pensions have 25 such a long life there are a lot of creative options</p>

Page 121

1 we can explore to address how they will be treated  
2 in restructuring."  
3 What were your creative options that you  
4 had on the table?  
5 A. There's dozens. I mean, I don't have one that I  
6 would pick out. But pension funds do have a long  
7 life and there's a lot of creative things that can  
8 be done, so I -- I don't have one or two that I  
9 would just throw out, but I do know that there's a  
10 lot of ways to address that issue.  
11 Q. Have there been any formal reports or proposals  
12 identifying and explaining what you consider to be  
13 these creative options?  
14 A. No.  
15 Q. Were these creative options ever explored with the  
16 pension systems directly --  
17 A. Not to my knowledge.  
18 Q. -- to your knowledge?  
19 I don't have any further questions.  
20 MR. SHERWOOD: Anybody else have questions?  
21 MR. WERTHEIMER: I do not.  
22 RE-EXAMINATION  
23 BY MR. SHERWOOD:  
24 Q. I have one question about D-7, which I hadn't seen  
25 before the deposition. It's an email to you from

Page 122

1 Heather Lennox.  
2 I just want to know what your understanding  
3 of the sentence "Many provisions in here are  
4 designed to take advantage of PA 4 while it is still  
5 in existence, but this also references other state  
6 laws that would buttress the FCB and PCA powers..."  
7 What is FCB -- what is your understanding  
8 of what FCB and PCA powers, what that means?  
9 A. FCB I don't know. She might be referring to  
10 Financial Control Board, but as opposed to the FAB  
11 I'm surmising.  
12 PCA is not ringing a bell either.  
13 Q. At this time there was a Financial Control Board in  
14 existence, right?  
15 A. No, I think that -- well, I think it was part of the  
16 financial stability agreement, the creation of the  
17 FAB, I think.  
18 Q. And PCA, you don't know what that means?  
19 A. I'm not recalling offhand, no.  
20 Q. Was it -- did you express a desire to buttress the  
21 powers of the Financial Control Board and insulate  
22 those powers from attack in the event of a repeal?  
23 A. Can you restate the question? I'm sorry.  
24 Q. Was it -- were you interested at this point in time,  
25 in March of 2012, to take steps to buttress the

Page 123

1 power of the Financial Control Board and insulate  
2 those powers from being attacked in the event PA 4  
3 was repealed?  
4 A. I don't know if buttress is the right word. If  
5 you're going to put in place all the structuring and  
6 negotiate a consent agreement with the City, there's  
7 other ways -- other legal basis to do that through  
8 interlocal agreements. There's other laws that we  
9 could look to that would give us the authority to  
10 have this agreement have meaning to it.  
11 So the thought was, you know, identify all  
12 those legal arguments that would give legal standing  
13 to the Financial Advisory Board and the consent  
14 agreement is my memory.  
15 MR. SHERWOOD: That's all.  
16 MS. NELSON: All right, we're done. Thank  
17 you.  
18 THE WITNESS: Thank you.  
19 VIDEO TECHNICIAN: Deposition has concluded  
20 at 12:23 p.m.  
21 (Deposition concluded at 12:23 p.m.)  
22 - - -  
23  
24  
25

Page 124

1 CERTIFICATE  
2 STATE OF MICHIGAN )  
3 COUNTY OF OAKLAND ) SS:  
4  
5 I, LAUREL A. JACOBY, Certified Shorthand  
6 reporter, a Notary Public, hereby certify that I recorded  
7 in shorthand the examination of TREASURER ANDREW DILLON,  
8 the deponent in the foregoing deposition; and that prior  
9 to the taking of said deposition the deponent was first  
10 duly sworn, and that the foregoing is a true, correct and  
11 complete transcript of the testimony of said deponent.  
12 I further certify that no request was made for  
13 submission of the transcript to the deponent for reading  
14 and signature and that no such submission was made.  
15 I also certify that I am not a relative or  
16 employee of a party or an attorney for a party; or  
17 financially interested in the action.  
18  
19  
20 LAUREL A. JACOBY, CSR-5059, RPR  
21 Notary Public, Oakland County, Michigan  
22 My commission expires: 9/1/18  
23 Dated: This 13th day of October, 2013.  
24  
25